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BEFORE THE

DEPARTMENT OF TRANSPORTATION

WASHINGTON, D.C.

Application of AMERICAN AIRLINES, INC. under 49 U.S.C. § 40109 for exemption (U.S.-Colombia and Route Integration)	OST-97-2081 - 4
Application of AEROVIAS NACIONALES DE COLOMBIA, S.A. for an exemption from 49 U.S.C. § 41301	OST-97-2083 - 4
Joint Application of AMERICAN AIRLINES, INC. and AEROVIAS NACIONALES DE COLOMBIA, S.A. ("AVIANCA") for Statements of Authorization under 14 C.F.R. Parts 207 and 212 (Reciprocal Code-Sharing Services)	Undocketed

CONSOLIDATED ANSWER OF
CONTINENTAL AIRLINES, INC.

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February 3, 1997

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CONSOLIDATED ANSWER OF
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If the Department had any doubt that American is trying to lock out competition and expand its dominance of U.S.-South and Central America markets by joining forces with dominant foreign-flag airlines this application should resolve that doubt. Just last summer, American pushed the doors of the U.S.-Colombia market closed by insisting on its own right to operate New York-Bogota-Quito

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service it has never instituted.[1] In the U.S.-Colombia market, American already controls 74% of the U.S.-flag seats and Avianca already controls 72% of the Colombian-flag seats, but the two carriers are asking the Department to allow them to join forces to increase their ability to squeeze competition out of the U.S.-Colombia marketplace. Worse still, they seek not only to align themselves in this closed market but also to secure extra-bilateral code-share authority to serve points throughout the U.S., Colombia and six other South American countries.

The proposed American/Avianca agreement is so unredeemably anticompetitive the Department should dismiss this application out of hand or deny it. Continental states as follows in support of its position:

1. Not content with operating 64% of the U.S.-flag scheduled nonstop flights serving Central America and South America and seeking authority for its mega-alliances with British Airways and the TACA Group, American now seeks approval also of an extensive reciprocal code-share agreement with Avianca that will intensify American's already unhealthy dominance in the U.S. and Central and South America markets. While the agreement contains a "Non-exclusivity" clause, it prohibits the two carriers with 69% of the nonstop seats between the U.S. and Colombia (see Exhibit A) from entering into code-share arrangements with other carriers in U.S.-Colombia markets covered by the agreement. A

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[1] Since the rights are available only to American, by name, no other carrier can use the dormant rights agreed upon to satisfy American's claim that it needed such rights immediately.

Deputy Assistant Secretary for Aviation and International Affairs said less than a year ago: "For us in government, the quest is how do we get more competition, and how can we see that it produces the greatest benefit for the traveling public, as well as for the airlines' shareholders."[2] American's quest, however, seems to be reducing competition to produce the greatest benefit for American's stockholders. Unless the Department now shares American's goal to stifle competition in the U.S.-Colombia market and throughout South America completely, it must deny or dismiss the American and Avianca applications.

2. American and Avianca propose code-share service at five U.S. gateways and four Colombian gateways, between three of the Colombian gateways and 16 interior Colombian points, between five U.S. gateways and 27 interior U.S. points, and between the U.S. and Argentina, Venezuela, Peru, Ecuador, Brazil and Chile. Since the U.S.-Colombia agreement contains no provisions authorizing code-shares, the American/Avianca code-sharing arrangement is itself extra-bilateral. Moreover, Avianca's proposed service at Dallas/Ft. Worth, Houston, San Francisco, Atlanta, Orlando, Denver, New Orleans, Tampa, Baltimore, Seattle, Detroit, Minneapolis/St. Paul, Las Vegas, Honolulu, Phoenix, Cleveland, Raleigh/Durham, San Diego, Salt Lake City, San Antonio, Oklahoma City, Tulsa, Washington,

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[2] "Competition in Aviation: Emerging Issues in the Domestic and International Marketplace," Address by Mark L. Gerchick, Deputy Assistant Secretary for Aviation and International Affairs, U.S. Department of Transportation, before the International Aviation Club, March 5, 1996, at 1.

Boston, Philadelphia, Buffalo and Chicago would all be extra-bilateral, as would American's proposed service at Medellin. Avianca is seeking code-share authority far broader than the U.S. has generally been willing to grant in exchange for significant bilateral rights, yet Colombia is offering nothing except additional rights exclusively for American.

3. Approving the American/Avianca alliance would significantly reduce network competition for U.S.-Colombia and U.S.-South America services because it would enhance American's already dominant network and perpetuate American's dominance of U.S.-flag opportunities in Colombia and other South America markets. Their agreement would also foreclose the possibility of any other U.S.-carrier from linking its network to Avianca's Colombian network,[3] and their combined dominance could force other carriers to retrench or eliminate U.S.-South America services.

4. The Department has endorsed code-sharing and approved individual agreements as a way of enhancing networks by "providing a cost-efficient way for carriers to enter new markets, expand their systems and obtain additional flow traffic to support their other operations." (U.S. International Air Transportation Policy (April 1995) at 4) Beneficial code-sharing allows for the formation of better

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[3] The Agreement's "Non-Exclusivity" provision says the arrangement "shall be exclusive with respect to those city-pairs on which the parties operate Cooperative Service Flights and Connecting Cooperative Service Flights between the United States and Colombia." (Paragraph 26.0 of the Alliance and Cooperative Services Agreement)

networks to compete against existing networks or networks to be formed and to deliver to the consumer more international service options and lower fares. (Id.) Although the Department has supported code-sharing as a beneficial way of expanding access of U.S. carriers to international markets and of fostering competition, the Department has also recognized that "there may be some negative effects" from "expansion of cooperative arrangements." (U.S. International Air transportation Policy Statement (April 1995) at 5) Specifically, "[t]he greater traffic access of participants may give them considerable competitive muscle, and we may need to watch for harmful effects on competition." (Id., emphasis added) The harmful effects of the American/Avianca alliance on competition clearly outweigh any conceivable benefit, and the alliance will surely inhibit both domestic and international competition. Approval would not only "give [American] considerable competitive muscle," but also enable American to further its scheme to eliminate all competition in Colombia and other South American markets. For consumers, the reduction of competition will bring higher prices and fewer service options. The Department's blessing of this anticompetitive alliance would signal to other Latin American carriers that they have no choice but to join forces with American or be crushed by the combined marketpower of American and its partners.

5. In addition to Avianca, American has reached agreements with LAPSA (Paraguay), TACA (El Salvador), Aviateca (Guatemala), LACSA (Costa Rica),

NICA (Nicaragua), COPA (Panama), and it is reportedly pursuing agreements with Aerolineas Argentinas, SAETA (Ecuador), Iberia (which serves Central and South America and owns interests in South American carriers), LanChile, Pluna (Uruguay), Varig (Brazil), and Viasa (Venezuela). Together, these carriers would control over 75% of the U.S.-Colombia seats (see Exhibit A). Each of the potential agreements with Central and South American carriers, individually and collectively, would add to American's stranglehold on the region and stifle the competitive forces at work. American alone already controls the majority of U.S.-flag seats in virtually every South American country (see Exhibit B), and its potential partners control the majority of foreign-flag nonstop seats in the market. (See Exhibit C) The potential dominance is particularly significant because American owns Miami, not only the largest gateway to this region (see Exhibit D) but also geographically located as a critical connecting point for the U.S., Canada, and Europe, where American has other alliances with major carriers. American and its potential Latin American partners control 71% of the Miami-Central/South American seats. (See Exhibit E) American's proposed alliance with British Airways would further enhance its ability to control the region by feeding huge amounts of transatlantic traffic into Central and South America through Miami. No other international region is as dominated by one carrier as Central and South America are dominated by American. Since American and its potential partners control 71% of the nonstop seats between Miami and Central/South America (see

Exhibit E), any and all attempts by American to align itself with Colombian and other South American partners would be detrimental to competition throughout the region and should not be approved. (See Exhibits F and G)

6. Viewed in isolation or in combination with American's other proposed mega-alliances, the American/Avianca code-share should be rejected because it eliminates competition between the American and Avianca networks, which together control 69% of the U.S.-Colombia seats. (See Exhibit A) American controls 35% of the nonstop seats between the U.S. and Colombia, and Avianca controls another 34%. Together, American, and its potential partners, Avianca, Aerolineas Argentina and LanChile control 75% of the nonstop seats between the U.S. and Colombia (see Exhibit A). American dominates Miami, which is by far the largest gateway to Central and South America. As the Department said six months ago when it refused to award American more U.S.-Peru frequencies:

> when we compare American with other carriers that operated in the U.S.-Lima market during calendar year 1995, American carried 2.8 times more passengers than the next closest carrier (Aeroperu) and 4.2 times more than the next closest U.S. carrier (United). In the U.S.-South and Central American market American carried 1.7 times more passengers than the next closest carrier (Mexicana de Aviacion) and 4.7 times more than the next closest U.S. carrier (Continental).

(Order 96-6-53 at 7) Although Continental is the third largest carrier in the U.S.-Colombia market, it operates only 12% of the nonstop seats between the U.S. and

Colombia. To preserve U.S.-Colombia competition, the Department must dismiss or deny the American and Avianca applications.

For the foregoing reasons, Continental urges the Department to dismiss or deny the applications of American and Avianca.

Respectfully submitted,

CROWELL & MORING LLP

By: R. Bruce Keiner, Jr.

Counsel for
Continental Airlines, Inc.

CERTIFICATE OF SERVICE

I certify that I have today served a copy of the foregoing answer on counsel for American and Avianca and all parties served with the American and Avianca applications in accordance with the Department's Rules of Practice.

R. Bruce Keiner, Jr.

February 3, 1997

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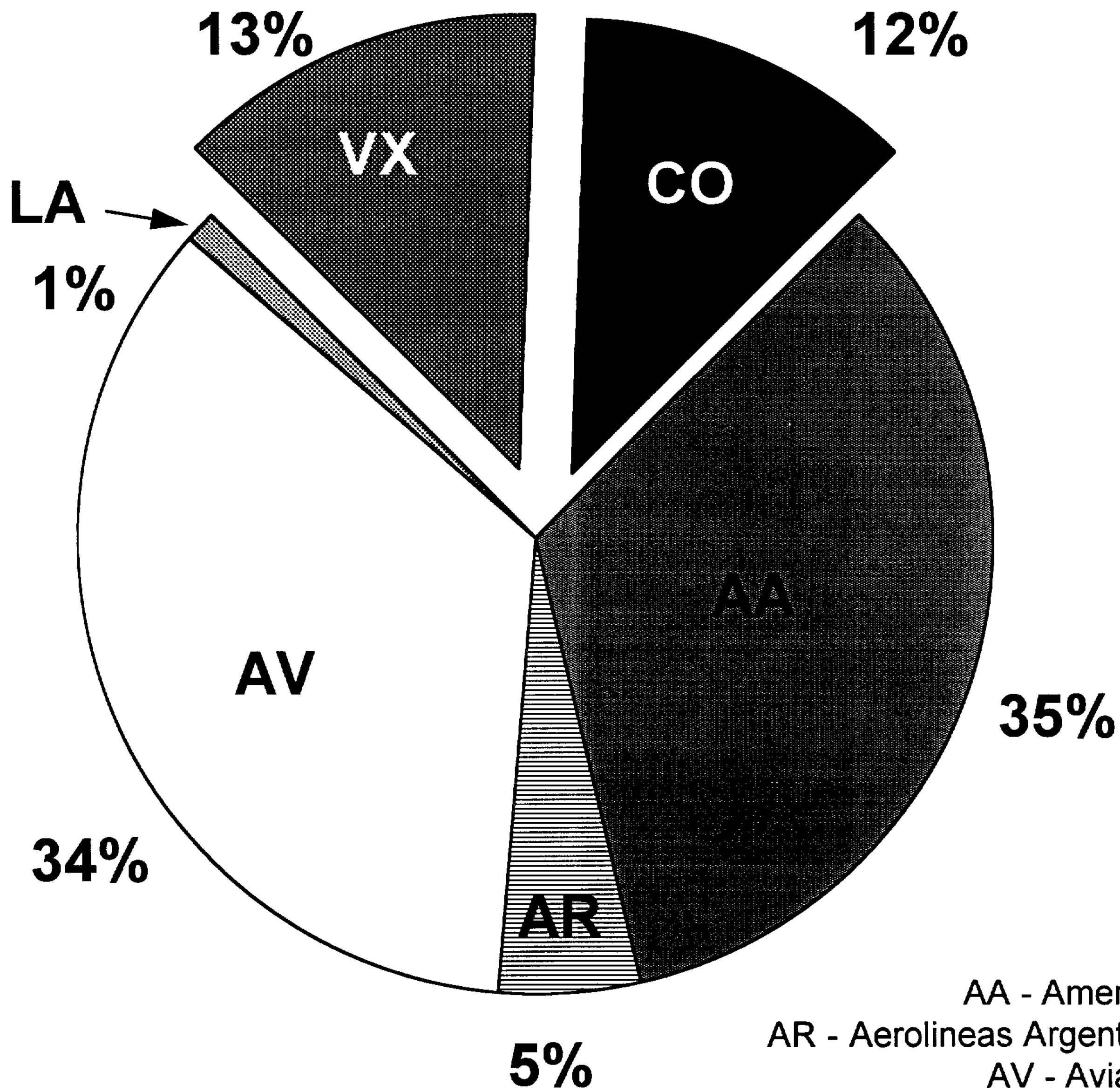
Exhibit A

Continental Airlines

Colombia

Together American, Aerolineas Argentinas, LanChile, and Avianca control 75% of non-stop seats between the U.S. and Colombia



AA - American
AR - Aerolineas Argentinas
AV - Avianca
CO - Continental
LA - LanChile
VX - ACES

Source: OAG 1/97

Exhibit B

Continental Airlines

South American Dominance

American Airlines controls the majority of non-stop U.S. carrier seats in virtually every South American country.

○ Greater than 50% seat share

● Less than 50% seat share

Source: OAG 1/97

Exhibit C

Continental Airlines

South American Dominance

American's potential partners control the majority of foreign flag non-stop seats from South America to the U.S.

○ Greater than 50% seat share

● Less than 50% seat share

Source: OAG 1/97

Exhibit D

Continental Airlines

The Miami Gateway Dominates Latin America

American dominates Miami, by far the largest gateway to Central and South America, carrying over five times the traffic of the second ranking gateway

Gateway	Annual Passengers	Share of Total
Miami	7,052,832	66.09%
Newark / New York	1,381,244	12.94%
Los Angeles	889,175	8.33%
Houston	649,212	6.08%
Dallas	214,123	2.01%
San Juan	116,361	1.09%
Other	368,798	3.46%
Total	**10,671,745**	**100%**

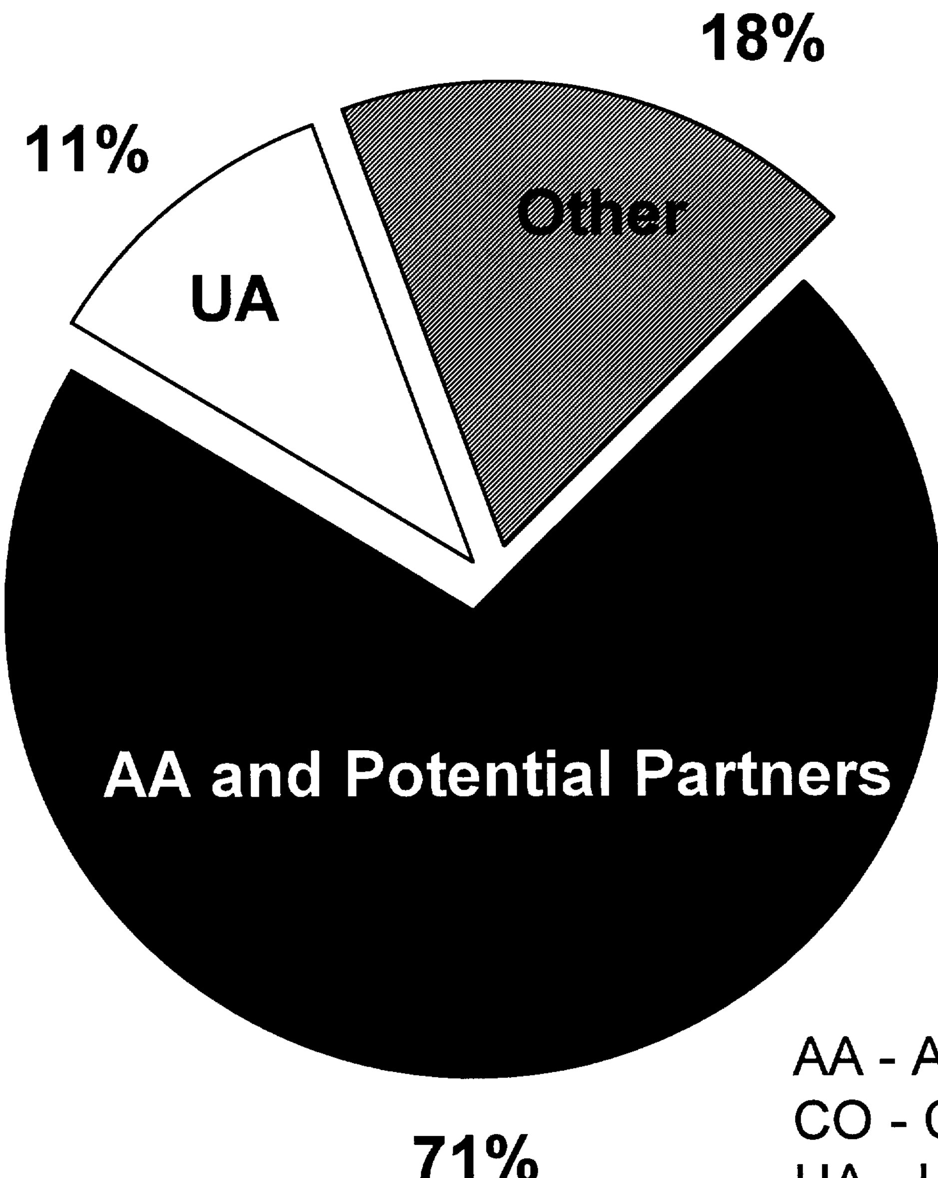
Source: INS Data year ending 4/96

Exhibit E

Continental Airlines

Miami - Central and South America

American and its potential partners control 71% of the non-stop seats between Miami and Central/South America



AA - American
CO - Continental
UA - United

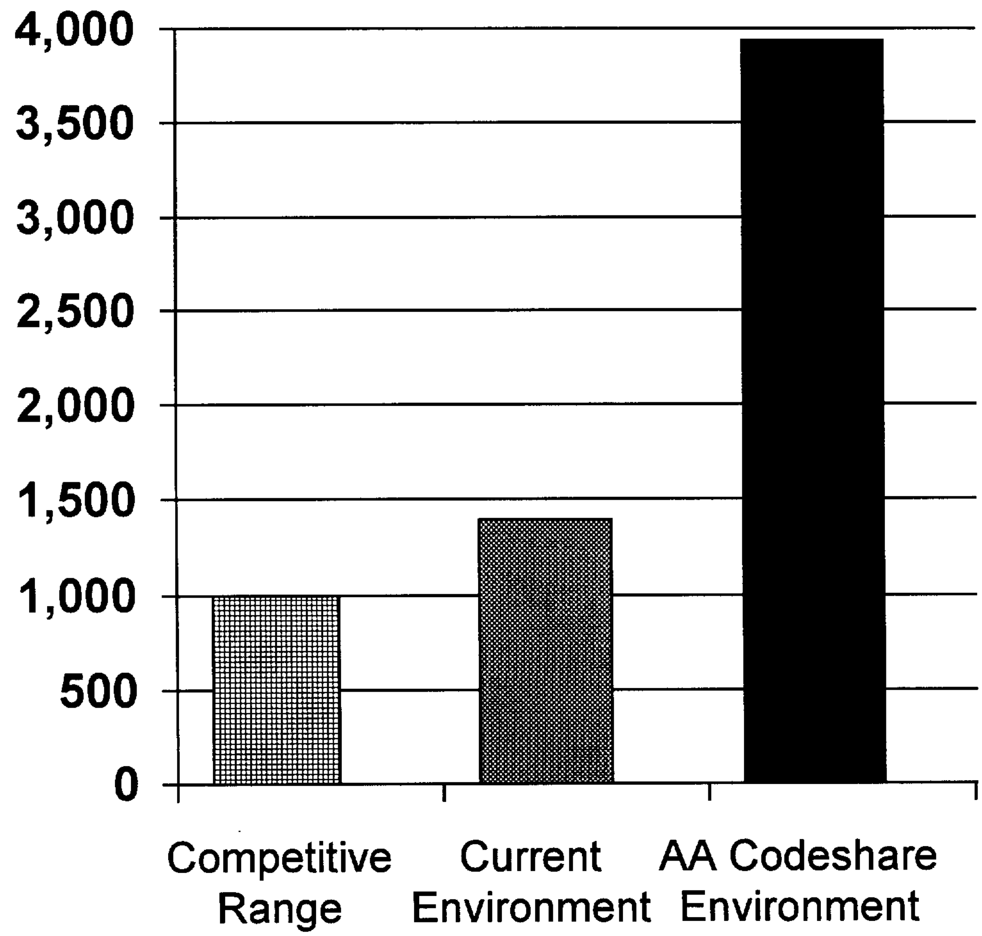
Source: OAG 1/97

Exhibit F

Continental Airlines

Indications of Market Dominance in Colombia

Potential AA alliances further concentrate the U.S. - Colombia market, increasing the HHI by 3,142, so that they should be "presumed... likely to create or enhance market power or facilitate its exercise."*



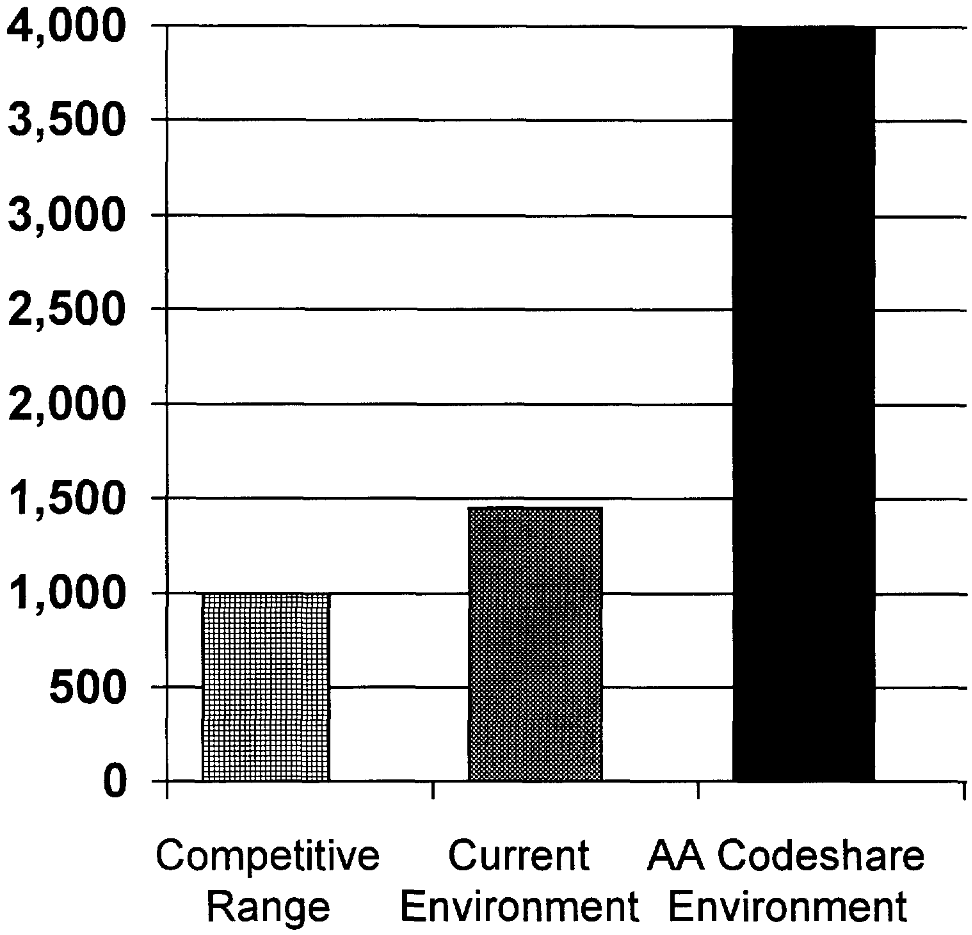
* U.S. DOJ and FTC Horizontal Merger Guidelines, 1992

Exhibit G

Continental Airlines

Indications of Market Dominance in South America

Potential AA alliances further concentrate the U.S. - South America market, increasing the HHI by 2,559, so that they should be "presumed... likely to create or enhance market power or facilitate its exercise."*



* U.S. DOJ and FTC Horizontal Merger Guidelines, 1992

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